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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

PACIFIC GULF SHIPPING CO.,

Plaintiff,

v.

ADAMASTOS SHIPPING & TRADING
S.A., VIGOROUS SHIPPING &
TRADING, S.A., BLUE WALL SHIPPING
LTD., and PHOENIX SHIPPING &
TRADING S.A.,

Defendants.

No. 3:18-cv-02076-MO

Admiralty

DEFENDANT VIGOROUS SHIPPING &
TRADING S.A.'S RESPONSE TO
PLAINTIFF'S DISCOVERY PLAN
PROPOSAL

Subject to its restricted appearance under Supplemental Admiralty Rule E(8) as owner of the M/V VIGOROUS (“VIGOROUS” or “Vessel”), Vigorous Shipping & Trading S.A. (“Vigorous Shipping”) files this response to the proposed plan for expedited discovery filed by Pacific Gulf Shipping Co. (ECF No. 37), and would respectfully show the following:

Firstly, Vigorous Shipping objects to Plaintiff’s proposed interrogatories and request for production, Plaintiff’s request for depositions of witnesses from parties that have not been served or appeared in this matter, and Plaintiff’s request to issue subpoenas for documents to nonparty insurers as overly broad, unduly burdensome, as well as exceeding the scope of permissible discovery under the Federal Rules of Civil Procedure.¹ Specifically, Vigorous Shipping has made a restricted appearance herein under Supplemental Admiralty Rule E(8) as owner of the Vessel. None of the other three named defendants in this case, i.e., Blue Wall, Phoenix, and Adamastos Shipping, have appeared. To the extent discovery is being allowed in this action, it should be narrowly limited to Plaintiff’s alter ego allegations, to wit: Blue Wall and/or Phoenix and/or Vigorous Shipping are alter egos of Adamastos Shipping. Many of Plaintiff’s proposed requests are not sufficiently limited, as they would produce a voluminous amount of documents that bear no semblance to what is necessary to vet alter ego status. For example, Phoenix is a ship manager. In that capacity, it deals with all operational matters relating to the vessel’s

¹ Regarding narrowly limiting discovery to Plaintiff’s alter ego allegations, *see Res. Marine PTE, LTD. v. Solym Carriers (London) Ltd.*, 2:12-CV-2554-JAM-GGH, 2012 WL 6628966, at *2 (ED Cal Dec 19, 2012). Further, such narrowly limited discovery is also subject to FRCP 26(b)(1), which states that “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.”

employment under its ship management contract with the vessel owner, and so deals with insurance, crewing, supplies, chartering, bunkering, technical assistance, etc. None of those matters bear upon alter ego status because they are a matter of contract. *See also* Exhibit 1, accompanying declaration of Stathis Gourdomichalis.

Secondly, Plaintiff's proposed schedule is insufficiently expedited. Prejudgment attachment is an extraordinary remedy. Vigorous Shipping is incurring substantial monetary costs on a daily basis, the wheat cargo aboard the vessel is destined for a war-torn region where a cease fire has occurred allowing the entry of the food product in aid of a humanitarian crisis, and Vigorous Shipping is facing extreme financial pressures from its charterer, whom we expect to present a significant claim for cover relating to the intended voyage. The cargo is valued at somewhere between \$12.5 and \$13.0 million and is a foodstuff susceptible to spoliation, and the potential transshipment costs to transfer the cargo to another vessel, even if possible in Oregon, would run into the millions of dollars. Consequently, delays in carrying out discovery only serve to exacerbate the financial duress of this attachment.

Under Plaintiff's proposed plan, discovery would remain ongoing through at least the week of January 7-11, 2019, which is when Plaintiff is proposing to take depositions, as Plaintiff has asserted that should it deem Vigorous Shipping's responses to its proposed Interrogatories and Request for Production to be insufficient, it may ask the Court to push back depositions even farther. The Vessel has been under attachment since December 5, 2018, and allowing discovery to run through January 11, 2019, or later, ensures that it will remain so for well over 30 days, given the amount of time that will be needed for post-discovery briefing to the Court.

In light of the foregoing considerations, Vigorous Shipping respectfully requests that the Court reject Plaintiff's proposed plan and limit discovery in this matter to the following:

- Attached hereto as Exhibit 2 are Vigorous Shipping's objections and answers/responses to Plaintiff's proposed discovery requests. As referenced in the responses, Vigorous Shipping is willing and ready to produce a very large amount of documents responsive to Plaintiff's requests. Vigorous Shipping was prepared to produce the documents referenced in Exhibit 2 today, Friday, December 14, 2018. However, Plaintiff has refused to commit to the submission for entry of the Court's approved form of Stipulated Protective Order covering the production, which is necessary because many of the documents at issue are proprietary and relate to private companies that are not otherwise publicly available, and some of which contain material that is protected from disclosure under the European Union's GDPR directive, or to request a hearing before the Court today on entry of a protective order. Vigorous Shipping will therefore be submitting a separate motion to the Court requesting expedited consideration of entering a proposed protective order, such that Vigorous Shipping can make any necessary confidentiality designations to the documents identified in Exhibit 2 and produce them by no later than the beginning of next week.
- Vigorous Shipping will present George Gourdomichalis and Stathis Gourdomichalis for depositions on Thursday, December 20, or Saturday, December 22, 2018, in Athens, Greece. Plaintiff will have had ample time to prepare for these depositions based on Vigorous Shipping having produced the documents identified above as soon as a protective order is entered by the Court.

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Vigorous Shipping respectfully requests a ruling from the Court at its earliest opportunity to facilitate logistical arrangements attendant scheduling the requested depositions.

DATED: December 14, 2018.

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s/ Sanja Muranovic

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